



VIA FAX

November 3, 2013

Sen. Rick Jones, Chair
Sen. Tonya Schuitmaker, Sen. Tory Rocca and Sen. Steven M. Bieda
Senate Judiciary Committee
Michigan Senate
Farnum Building, Rm. 110
Lansing, Michigan 48909

RE: HB 4064 and HB 4532

Dear Members of the Judiciary Committee:

Any action of the above referenced bills is premature. Much more work is needed before Michigan launches an e-filing docket management system. That's unfortunate because Michigan needs to catch up in this area, but first it needs careful, thorough research on what other states and the federal court PACER system are doing, a cost analysis, a careful consideration of a unified or diversified system with discussions with all 57 circuit courts around the state, and the pressing issues of who pays, how much it will cost the circuits and how the public will access court documents and records in this new system.

The Michigan Coalition for Open Government, working with students from the press law class at Oakland University, is in the final stages of a survey of all 57 circuit courts in the state asking some of these very questions. Opinions by court administrators and clerks, especially in the smaller circuits, repeatedly raised concerns about "unfunded mandates" handed down by the SCAO. A number of the circuits do not want an e-filing system unless and until the State pays the costs of setting it up, training, maintaining the hardware and software. In smaller circuits, with fewer cases filed, the profits of counties like Oakland, would be non-existent. In fact, it would likely be a cost to the court, their counties and the taxpayers who live there. These counties rely heavily on property tax revenues for operations, and property values have not recovered sufficiently for them to undertake this effort.

Another surprising outcome of the survey's preliminary results are the number of local court officials who stated that they "did not know enough about e-filing" to answer very basic questions on fees, of how the system would work, or even had any knowledge that this was under discussion.

Of those who did venture opinions, most wanted a unified system since all courts would be on an "even footing" and there would be a stronger network of support.

These issues need to be resolved before the SCAO is given the green light to bulldoze ahead. The State of Texas recently approved the gradual roll out of a unified system. All the issues and others that are unresolved in Michigan were thought about, researched, analyzed and answered. Feedback from the courts throughout the state was solicited. Concerns were addressed. Not every court officer is likely happy with the outcome, but everyone's voice and issues were heard.

A comprehensive, well designed docket management system is the goal. The SCAO should do it right. Otherwise, Michigan's e-filing system could roll out like the recent debacle of the Affordable Care Act. And this is possible. Midland's 42d Circuit Court had a pilot system for asbestos cases. The 42d Circuit pulled the plug on it after problems with the vendor managing the literally hundreds of pages of documents involved in these cases. The docket management system, according to court officials, could not handle this volume. Further, filing fees charged by the vendor were \$8/document and anything more than 100 pages was charged even more.

Creation of a statewide, unified docket management system is a good idea, but SCAO has not done the necessary research, cost analysis and statewide education to make successful. Require the SCAO to put some dollar figures on cost and efficiencies realized, and, most importantly address the issues that have been ignored--that of transparency, accountability and public access to the court documents.

Currently, anyone can walk into the clerk's office and read full court documents without a fee. These are public records. How will this same transparency be provided for remote access by the public in an e-filing docket management system? Can SCAO officials answer this question? They could not in a meeting I attended in June.

Please table discussion on these two bills and require the SCAO to do its homework.

The Michigan Coalition for Open Government is a tax exempt, Michigan nonprofit corporation founded to promote and protect transparency and accountability in the governments of the people, by the people and for the people at the local, state and federal levels.

Thank you for your time. If you have questions or concerns on this and would like to discuss the matter further, please feel free to contact me at 248-330-9626. Thank you for your consideration.

Sincerely,

Jane Briggs-Bunting, Esq.
President
Michigan Coalition for Open Government
www.miopengov.org